



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,574	09/22/2003	Kazuo Takaoki	2185-0706P	6442
2292	7590	05/09/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			LEE, RIP A	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	
			1713	
DATE MAILED: 05/09/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/665,574

Applicant(s)

TAKAOKI, KAZUO

Examiner

Rip A. Lee

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This office action follows a response filed on March 1, 2006. Claim 17 was amended. Claims 17-30 remain pending.

#### *Terminal Disclaimer*

1. The terminal disclaimer filed on March 1, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/220,022 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### *Claim Rejections - 35 USC § 102*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 17-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogane (U.S. 2002/0143124) and independently, Ogane (DE 101 64 188) for the same reasons outlined previously.

Briefly, Ogane teaches a modified particle prepared by a process comprising contacting a particle with a compound of formula  $M^1L_m^1$  ( $M^1$  is bismuth atom) and a compound of formula  $R^1_{t-1}TH$  ( $R^1$  is an electron withdrawing, halogenated hydrocarbon group, T is oxygen). The order of contact of components is: substances (a) and (b) are contacted with particle (d) (followed by contact with (c)). A further aspect of the invention is a catalyst comprising the modified particle. In this case, the modified particle is contacted with an aluminoxane and a metallocene to produce a catalyst for polymerization of ethylene with  $\alpha$ -olefins.

### *Response to Arguments*

4. The provisional obviousness-type double patenting rejection over the claims of copending Application No. 10/220,022 has been withdrawn.

5. Applicant's arguments have been considered fully, but they are not persuasive. Instant claim 17 is drawn to a process consisting essentially the step of contacting: (a)  $\text{BiL}_m^1$ , (b)  $\text{R}_{t-1}^1\text{TH}_n$  ( $T = \text{Gp } 15/16$ ;  $n \neq 2$ ), and (c) a particle. As elucidated above, Ogane teaches contact of components: (a)  $\text{M}^1\text{L}_m^1$  ( $\text{M}^1$  is bismuth atom), (b) a compound of formula  $\text{R}_{t-1}^1\text{TH}$ , and (d) a particle. The steps are identical. That Ogane requires addition of component (c)  $\text{R}_{t-2}^2\text{TH}_2$  does overcome the fact that the first step taught by Ogane is the same as that recited in the instant claims. Claims 21 and 23 are drawn to process of making a catalyst component comprising two recited steps. In this case, the term comprising does not exclude unrecited components, and therefore, these claims remain anticipated by the prior art. In view of this and previous discussions, the rejection of record has not been withdrawn.

### *Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1713

The prior art made of record but not relied upon is considered pertinent to the Applicant's disclosure. The following references have been cited to show the state of the art with respect to catalyst components comprising organobismuth compounds.

Chung *et al.* (U.S. 5,600,055)

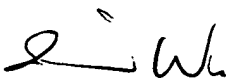
Wang *et al.* (U.S. 2002/0032289)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

ral

May 5, 2006

  
DAVID W. WU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700